IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 27398 of 2004(J)

PETITIONER:

A.J. JOHN, RETIRED DEPUTY CHIEF ENGINEER, ELECTRICAL CIRCLE, K.S.E.B., THODUPUZHA.

BY ADVS. DR.K.P.SATHEESAN,
SRI.K.K.GOPINATHAN NAIR,
SRI.M.R.JAYAPRASAD,
SRI.K.K.RAJEEV,
SRI.T.K.KAMALJITH.

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD, REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.**
2. **THE CHIEF ENGINEER (H.R.M.), KERALA STATE ELECTRICITY BOARD, VYDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.**
3. **DEPUTY CHIEF ENGINEER, GENERATION CIRCLE, MEENCUT, CHITHIRAPURAM.**
4. **THE DEPUTY CHIEF ENGINEER, IN CHARGE, K.S.E.B., DISTRIBUTION CENTRAL, ERNAKULAM.**

ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No.27398 of 2004

Dated this the 11th December, 2007

J U D G M E N T

The Petitioner retired from service on 31.10.2003. By Exhibit P8 order issued on 10.8.2001 a liability to the tune of Rs.1,24,996 was fixed against the petitioner . This is stated to be on account of loss sustained by the Electricity Board due to the overstayal of P.K.Vasu Electrician Grade -III. Exhibit P9 shows that a non liability certificate issued to the petitioner on 21.7.2004 shows the same amount mentioned in Exhibit P8 is treated as liability. Apart from the same, further amount of Rs.35,880/- is also fixed as liability. It may be noted here that there is no dispute as regards the amount of Rs.32,880/-. The dispute is now confined to the amount of Rs.1,24,996 stated to be the loss sustained due to the overstayal of P.K.Vasu.

2. The issue regarding P.K.Vasu arose when he claimed that he is entitled to continue till the age of 60. According to the Board his age of superannuation is 55 years. Issue came to be resolved by this court in Exhibit P18 judgment. Paragraph 5 of the judgment, reads as follows:

> "Accordingly the writ petition is allowed. Having regard to the fact that the petitioner was allowed to continue in service upto the age of 60 years by the Board itself, though the contention of the Board is that the superannuation age of employees belonging to the category of petitioners is 55 years, there shall be a direction that the petitioner shall be paid pensionary benefits reckoning the full length of service rendered by him upto the age of 60 years. Pension and other retirement benefits sanctioned shall be revised appropriately and the difference in the amount paid to the petitioner within a period of four months from the date of receipt of a copy of this judgment. Writ petition is allowed as above."

3. Exhibit-P18 was affirmed by the Division Bench in Exhibit-P19 judgment. In circumstances where this court has held that Vasu was entitled to continue up to the age of 60, it may not be possible to hold that the board has suffered loss on account of his continuance up to age of 60. The question of fixing the liability of the petitioner therefore has to be

reconsidered in the light of Exhibit P18 Judgment of this court which came only after Exhibit P9 - Non liability Certificate.

In the result, Exhibit P9 is set aside to the extent of fixing the liability of Rs.1,24,996/- . The 2nd respondent is directed to issue a fresh NLC/LC to the petitioner in the light of Exhibits P18 & P19 judgments of this Court, within a period of one month from the date of receipt of copy of the judgment . Consequent thereupon, the balance amount due to the petitioner by way of DCRG shall be disbursed without further delay, within a period of one month thereafter.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007